

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 01
(IB)-1248(PB)/2018

IN THE MATTER OF:

Shinoj Koshy	...	Applicant/Petitioner
Vs		
Granite Gate Properties Pvt. Ltd.	...	Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016, CIRP.

Order delivered on 10.03.2021

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Sumant Batra, Mr. Sanyam Saxena,
Ms. Niharika, Advs.

For Noida Authority : Mr. Rachit Mittal Advocate

For Respondent : Mr. Harshit Agarwal, Advocate

ORDER

IA-1224(PB)/2021:-

It is an application, the Resolution Professional filed against RCB Infracon Pvt. Ltd. (R1) and Station House Officer, (Gautam Budh Nagar Police Station, Ground Floor, D-43, Dadri Main Road, Hosier Complex, Block-D Noida, Phase-2, Uttar Pradesh-201305) (R2) seeking directions against them to uphold protection to the applicant/Resolution Professional in terms of Section 233 of the Code and to direct the Respondents to cease and desist from taking any coercive steps against the applicant/RP for the acts done in good-faith in discharging his duties as RP; to hear and adjudicate the pending applications being IA-3338/2020, 3286/2020, 3394/2020, 428/2021 and CA-2565/2020 on the ground that the Managing Director of R1 Company has filed a complaint



before Learned Additional Chief Judicial Magistrate-III, District Court Complex, Surajpur, Greater Noida, Gautam Budh Nagar, Uttar Pradesh (being case No. 759/2021) against the RP for a direction to the police to register FIR u/s 156(3) of Cr. P. C, in pursuance thereof, the RP was in fact called upon to the police station in relation to the issue pertaining to the affairs of the corporate debtor.

2. The applicant submits that since the management of R1 Company indulged in fraudulent transactions in relation to the contract given to R1 Company, the RP has filed applications against R1 Company and its management as mentioned in the reliefs, the applicant submits, the management of R1 Company instead of defending those applications, they have taken this route to cause obstruction to the RP in discharging his duties, which is in violation of Section 233 of the Code.

3. It is pertinent to mention that Section 233 of the Code says as follows:-

“233. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government, or the Chairperson, Member, officer or other employee of the Board or an insolvency professional or liquidator for anything which is in done or intended to be done in good faith under this Code or the rules or regulations made thereunder.”

4. On reading this Section, it appears that no prosecution shall be initiated against the Resolution Professional mentioned in Section 233 of the Code for the acts done or intended to be done in good-faith.

5. The Counsel appearing on behalf of R1 submits that in the complaint filed by the management of R1 for a direction against the police to register FIR against the RP under Section 156(3) of CrPC, the learned Magistrate has



already held that no such direction could be given under section 156 (3) of Cr P C, in case the complainant intends to proceed, he shall proceed under section 200 of CrPC.

6. In the backdrop of this factual situation, we hereby direct R2, in the light of mandate under section 233 of the Code, shall not take any coercive steps against the applicant/RP herein because he has been provided protection under Section 233 of the Code that no prosecution shall lie against the RP for anything done in good faith under the Code or the Rules or Regulations of the Code.

7. For the complainant has not been made as party to this application, the applicant is at liberty to file an impleadment application before this Bench within one week hereof.

8. List this matter on **23.03.2021** with a direction to the Respondents to file reply within 10 days hereof.

- Sd -

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

Sd-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

10.03.2021
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